IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Madan Singh v. State of Raj. & Ors.

S.B.CIVIL WRIT PETITION NO.2501/2003
under Article 226 of the Constitution of India.

Date of Order : 4th March, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Rajendra Singh]
Mr. P.S.Bhati] for the petitioner.
Mr. Rameshwar Dave, Dy.Govt.Advocate.

BY THE COURT :

By this writ petition a challenge is given by the petitioner to the order dated 1.5.1997 passed by Commandant 9th Battalion, R.A.C., Tonk; order dated 30.9.1997 passed by Dy. Inspector General of Police, R.A.C. Range-II, Jaipur and the order dated 24.4.1998 passed by Dy. Secretary to the Government of Rajasthan, Department of Home (Group-I), Jaipur exercising powers of the State Government.

By order dated 1.5.1997 the Commandant, 9th Battalion, RAC while exercising powers under Rule 17 of the Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958

(hereinafter referred to as “the Rules of 1958”) imposed a punishment of censure upon the petitioner. The Dy. Inspector General of Police, RAC Range-II by order dated 30.9.1997 affirmed the order passed by the disciplinary authority. By order dated 24.4.1998 the reviewing authority dismissed the review petition preferred by the petitioner under Rule 34 of the Rules of 1958.

The sole contention of the petitioner is that the orders passed by the disciplinary authority as well as appellate authority are non-speaking and unreasoned orders. The authorities while passing the order impugned have not considered the explanation submitted by him objectively and the orders impugned were passed without proper application of mind.

Per contra, counsel for the respondents has stated that punishment imposed upon the petitioner is commensurating to his delinquencies, therefore, there is no need to interfere with the orders passed by the competent authorities under extra ordinary jurisdiction of this Court.

I have heard counsel for the parties and perused the order Anx.3 dated 1.5.1997 passed by Commandant, 9th Battalion, RAC, Tonk whereby he imposed a punishment of censure upon the petitioner.

The order dated 1.5.1997 is apparently a

non-speaking and unreasoned order. The disciplinary authority after noting down the allegation levelled against the petitioner imposed punishment of censure upon him. The disciplinary authority while imposing punishment stated that he was not satisfied with the explanation given by the delinquent employee. The disciplinary authority has not taken into consideration the explanation given by the petitioner. It is obligatory upon the disciplinary authority to support his finding by sufficient reasons. No reason is available in the order impugned to support the finding given by the disciplinary authority.

Similarly the order passed by the appellate authority is also absolutely non-speaking and unreasoned order. The appellate authority while deciding the appeal preferred by the petitioner has not considered the contentions raised by the petitioner in his memo of appeal. The appellate authority while rejecting the appeal has stated that he found from perusal of documents that there is no cogent reason to accept the appeal. The disciplinary authority as well as the appellate authority while imposing the punishment or affirming the punishment exercises quasi judicial function. A quasi judicial authority is always required to adjudicate the issues judiciously and the findings given by those authorities are required to be supported by adequate reasons. In the present case no such

reasons are available in the orders passed by the disciplinary authority as well as by the appellate authority.

It is contended by the counsel for the respondents that the reviewing authority has passed a speaking and reasoned order, therefore, the grievance of the petitioner on the count that the orders passed by the disciplinary authority and the appellate authority are not speaking and reasoned orders, is not justified.

I have perused the order passed by the reviewing authority also. However, without making any comment about that order I would like to state that in event the original order itself is laconic then such a lacunae cannot be cured by reviewing authority. In the present case as I held above that the order passed by the disciplinary authority itself is a non-speaking and unreasoned order, therefore, the contention of the counsel for the respondents that the order passed by the reviewing authority is speaking and reasoned order, is of no consequence.

In view of whatever stated above, this writ petition deserves acceptance. The same is, therefore, allowed. The order dated 1.5.1997 passed by Commandant 9th Battalion, R.A.C., Tonk; order dated 30.9.1997 passed by Dy. Inspector General of Police, R.A.C. Range-II, Jaipur and the order dated 24.4.1998 passed by Dy. Secretary to

the Government of Rajasthan, Department of Home (Group-I), Jaipur exercising powers of the State Government are hereby quashed.

No order as to costs.

(GOVIND MATHUR),J

kkm/ps.